

STATE OF MICHIGAN
DEPARTMENT OF LABOR & ECONOMIC GROWTH
OFFICE OF FINANCIAL AND INSURANCE SERVICES

Before the Commissioner of Financial and Insurance Services

In the matter of

XXXXX

Petitioner

File No. 86277-001

v

Aetna Life Insurance Company
Respondent

Issued and entered
this 28th day of December 2007
by Ken Ross
Acting Commissioner

ORDER

I

PROCEDURAL BACKGROUND

On November 13, 2007, XXXXX (Petitioner) filed a request for external review with the Commissioner of Financial and Insurance Services under the Patient's Right to Independent Review Act, MCL 550.1901 *et seq.* The Commissioner accepted the request on November 15, 2007.

The Commissioner notified Aetna Life Insurance Company (Aetna) of the external review and requested the information used in making its adverse determination. The company provided the information on November 14, 2007.

The case presented a medical question so the Commissioner assigned it to an independent review organization (IRO) which provided its analysis on December 3, 2007.

II

FACTUAL BACKGROUND

The Petitioner has health care coverage under the Michigan State University Student Health

Insurance Plan underwritten by Aetna. The Petitioner was admitted to XXXXX Hospital on January 17, 2007 with a closed right tibial shaft fracture and impending compartment syndrome of the right foreleg, and a left malleolar fracture. He underwent three surgical procedures from January 17 to January 27, 2007. Claims for the surgical procedures and related treatments from January to July 2007 were submitted and Aetna provided coverage up to the Basic Benefit Maximum of \$50,000.00.

The Petitioner appealed Aetna's determination that services were for a single covered injury. Aetna reviewed the claim but upheld its denial. A final adverse determination was issued October 16, 2007.

III ISSUE

Is Aetna required to provide additional coverage for the Petitioner's surgeries and treatment from January to July 2007?

IV ANALYSIS

Petitioner's Argument

The Petitioner says that he had three separate conditions. He acknowledges that the right tibial shaft fracture and left lateral malleolus fracture could be treated as a single condition but contends that the compartment syndrome that developed in his right leg after the January 17, 2007 accident is a separate condition. His physician XXXXX supported this theory.

The Petitioner believes that Aetna should provide coverage for each condition separately and the maximum amount of coverage applied accordingly.

Aetna Life Insurance Company's Argument

The Petitioner has group health insurance coverage with a basic benefit maximum of \$50,000.00 for each covered sickness or injury. Coverage for the injuries sustained by the Petitioner on January 17, 2007 and resulting treatment and services has been provided as a single

condition. Aetna argues that it is correct in considering the Petitioner's injuries and resulting conditions as a single injury. Aetna also asserts that the Petitioner has reached the maximum aggregate amount of coverage for an injury from a single condition.

Aetna references the Summary of Benefits on page 25 of the MSU Student Health Insurance Plan brochure which states that the "basic Benefit Lifetime maximum is \$50,000 for each covered Sickness or Injury." Injury is defined in the plan on page 11 as "Bodily injury caused by an Accident; this includes related conditions and recurrent symptoms of such Injury." Aetna concluded that, under the terms and limitations of the Petitioner's plan, no benefits beyond the maximum aggregate amount of coverage of \$50,000.00 were available.

Commissioner's Review

The Commissioner has considered the arguments of both parties as well as the documentation and certificate of coverage. In reviewing adverse determinations that involve medical issues or clinical review criteria, the Commissioner requests an analysis from an IRO. The IRO expert reviewing this case is certified by the American Board of Orthopedic Surgery, is a member of the American Academy of Orthopedic Surgery, and is in active clinical practice.

The IRO reviewer determined that the Petitioner's surgical procedures involve one traumatic condition, even though three separate operative treatments were performed.

The IRO's report included this analysis:

Although the [Petitioner] was brought to the operating room on three separate occasions, these were all consequent to one event, the two fractures of the two different extremities that occurred on January 17, 2007. The procedure had to be staged by its very nature, as an attempt at closing the wound of the fasciotomy primarily would largely negate the purpose for decompressing the foreleg musculature. Given the fact that the procedure is staged, as it almost always is, although the [Petitioner] was brought to the operating room on three separate occasions, the undertaking was to accomplish correction of the injuries all sustained during one separate event. The procedure was undertaken according to nationally recognized standards of care and was optimally performed.

The IRO reviewer recommended the benefit decision issued by Aetna be upheld.

The Commissioner is not required in all instances to accept the IRO's recommendation. However, the IRO recommendation is afforded deference by the Commissioner because it is based on extensive expertise and professional judgment. The Commissioner can discern no reason why that judgment should be rejected in the present case. Therefore, the Commissioner accepts the recommendations in the IRO report and finds that the Petitioner's surgical procedures were for one condition and the Basic Benefit Maximum of \$50,000.00 applies.

**V
ORDER**

The Commissioner upholds Aetna Life Insurance Company's final adverse determination of October 16, 2007. The company is not required to provide coverage beyond the \$50,000.00 benefit maximum already paid for the Petitioner's surgical procedures.

This is a final decision of an administrative agency. Under MCL 550.1915, any person aggrieved by this Order may seek judicial review no later than sixty days from the date of this Order in the Circuit Court for the county where the covered person resides or in the Circuit Court of Ingham County. A copy of the petition for judicial review should be sent to the Commissioner of the Office of Financial and Insurance Services, Health Plans Division, Post Office Box 30220, Lansing, MI 48909-7720.

Ken Ross
Acting Commissioner